IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT

JAIPUR BENCH, JAIPUR

ORDER

1. Girraj Goyal & ors Vs The State of Rajasthan & ors

(SB Civil Writ Petition No.8888/2006)

2. Rajeev Kumawat & ors Vs The State of Rajasthan & ors

(SB Civil Writ Petition No.8450/2004)

3. Chiranji Lal Vs State of Rajasthan & ors

(SB Civil Writ Petition No. 1564/2007)

Writ Petitions under Article 226

of the Constitution of India

Date of Order: 25th May, 2007.

PRESENT

HON'BLE MR JUSTICE ASHOK PARIHAR

Mr Amin Ali
Mr Zakir Hussain
Mr Mahendra Singh
Mr MS Kachhwaha
Mr Amir Aziz
Mr Tarun Jain - for petitioners

Mr KK Sharma, Asstt Solicitor General, for UOI and National Tiger Conservation Authority
Mr Bharat Vyas, Addl Advocate General, for the State

Ms Anjana Gosin – for Tiger Trust
Mr Raj Panjwani – for WWF
Mr GK Garg – for the intervenors

Mr Dinesh Yadav – for 'Tigers Watch'
Mr Harshvardhan – for 'Tourism & Wildlife Society of India'.
Mr RP Garg
Mr Alok Sharma
Mr R Vyas
Mr V Agrawal
Mr SN Kumawat - for applicants

BY THE COURT:

Hunting has been a passion for royal families. It was a pleasure sport for their entertainment, excitement and collecting trophies of wild animals and, may be, to prove their Rule over the Jungle also. The wildlife would have almost extinguished but for the end of the Raj with the Independence of the Country. Some protective and prohibitory legislations had been enforced, however, the situation remained the same. Now the pleasure 'hunting' is sought by the tourists. Remaining finishing work is done by the poachers. The wildlife still running for a safe shelter for their survival and existence. The plight of the King of the jungle can well be imagined. Vehicle owners are worried for their employment, the tour operators for their business and hoteliers looking horrified by empty rooms. All hopes pinned on their business. But, where the wildlife plead for mercy. Under such circumstances, the courts have to intervene and come to their rescue.

In spite of all sorts of preliminary and technical objections as usual raised by the respective parties in such situations of claims, counter claims, blames, counter blames and shifting of burden and responsibilities, the courts have to evolve a balancing formula within the parameters of protecting, prohibitory legislations. Though, it is a matter of great debate in regard to fixing the responsibilities and taking appropriate prohibitory and precautionary measures at the level of Center as well as States also and some of the issues been sub judice before the Hon'ble Supreme Court, presently, we are concerned with the Ranthambore National Park to the extent of preservation of tigers and other wildlife, regulating the tourists and vehicles in the park and other subsidiary matters.

The Wild Life (Protection) Act, 1972 (for short 'the Act of 1972') to provide for the protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country received the assent of the President on 9.9.1972. The Project Tiger was also conceived and established in the year 1972-73. The Founder Director of the Project Tiger – Dr Kailash Sankhala – had observed that the tiger is the spirit of India, our national natural heritage species, one

we are pledged to preserve. Even a distant roar of tiger or an alarm call of some animal announcing his presence, charges the whole environment of the Jungle with excitement. He further observed that the broad concept of Project Tiger should be the commitment to the philosophy of total environmental preservation in selected areas and nature be allowed to play its part fully. The management should be limited to eliminating or at least minimizing human disturbance and the repair the damage already done by men. Ranthambore National Park was officially brought under the Tiger Project in the year 1980.

Initially, there have been tremendous enthusiasm for protection of tigers and other wildlife for about 10-15 years. However, with the influx of huge amount in the projects by the Central Government, World Wildlife Fund (WWF) and other sources, all eyes diverted to such funds instead of keeping watch on the safety of the tigers and the wildlife. It was only because of creation of vested interests that there have been phenomenal fall in the number of tigers and other wildlife. Sariska Sanctuary is the glaring example of the same where entire breed of tigers have been wiped out. The authorities have failed to find out the real fault and fix responsibility and take appropriate action. Enquiry reports are piling in the

offices, ministries and the courts only to be covered by dust or finished by the turmeric.

So far as Ranthambore National Park is concerned, the first positive report with constructive suggestions was made by Mr RS Kumat, the then Principal Secretary, Revenue Department, Government of Rajasthan in August, 1992 in regard to missing of tigers. The above report could have been taken as a wake-up call, however, as the ill fate would have it, the report appears to have been lost in the corridors of the Secretariat and the Forest Department. Tigers kept on missing. In Ranthambore National Park only, 47 tigers in 2004 were reduced to 26 in 2005. The politicians, bureaucrats and the investigating agencies are still beating the bush. The Environmentalists, nature lovers and tourists and the public at large are just baffled and looking at the gloomy situation with astonishment. Though, some measures have now been taken by the State Government and also the Central Government by way of amending the Wild Life (Protection) Act, 1972 in the year 2006. Various authorities, committees, foundations and forums have been established, however, when they will effectively enforce the law, it is a big question to be answered by the God only.

Initially, the petitioners had the main grievance against the Tourism Department in interfering with the affairs of the Ranthambore National Park, particularly, regulating the tourists and the vehicles in the park. A prayer had been made for a long term fix plan in this regard with complete control of the Forest Department and the Wild Life Authorities as has been provided under the Act of 1972 itself. Surprisingly, it has been a very healthy welcome gesture on part of all the parties including vehicle owners, tour operators, hoteliers, environmentalists, wild life organisations as also Central Government and the State Government to pray for some definite positive directions from this court, in the interest of protection of tigers and the wildlife, particularly, in Ranthambore National Park. It has become an unfortunate tendency of the Governments and the enforcement agencies to act only when some directions are issued by the courts and not to take effective measures of their own.

As per the directions issued by this Court, various details have been submitted on behalf of the State Government as also the National Tiger Conversation Authority. Many proposals and suggestions have also been put on record for assistance and convenience of the court

in deciding the issues involved.

After having considered submissions of learned counsel for the parties, material available on record, the provisions of the Act and the Rules thereunder, I deem it just and proper to issue following directions so far as Ranthambore National Park is concerned:-

1. Kumat Committee Report – The Report is a comprehensive study of the entire situation existed at the Ranthambore National Park. The same conditions are still prevailing. The Committee has given some concrete proposals on each aspect which may, with certain modifications, be accepted by the State Government.

2. Parking Complex – There is a large chunk of land at Sherpur Tiraha, which can be developed as a Parking Complex after levelling and proper landscaping the entire land from Sherpur Tiraha upto Electric Sub-Station. Apart from having enough parking place accommodating atleast 200 vehicles including buses, private cars, taxies, four wheelers as also two wheelers, the Complex may also have a Tourist Information Center and a Booking Office. Refreshment Center with Rest Rooms should also be provided at the Complex for convenience of the tourists as also pilgrims visiting the

Ganesh Temple. Some kiosks may also be set-up for selling 'pooja samagri' for the pilgrims. The entire Complex can also be developed as a Tourist Center where the tourists apart from getting all the informations and bookings may also get some entertainment as well. If required, proper additional land of the surrounding area may also be acquired for the purpose.

No vehicle, private or taxi, be allowed to enter the National Park beyond Sherpur Tiraha check point popularly known as Mishra Darra Gate except for the vehicles permitted to take tourists to the park or pilgrims upto Jogi Mahal Gate. The official vehicles of the Forest and National Park authorities are exempted from such restriction. For other Government vehicles, special permission of the Dy Conservator of Forest, Dy Field Director In-charge of the National Park can be sought.

3. Nature of vehicles – Pollution free atmosphere is prime consideration for protection of wildlife and environment of the National Park. CNG run vehicles are ideal for such locations. The Central Government may seriously consider the proposal for setting up atleast one CNG outlet at Sawai Madhopur near National Park area so as to cater for atleast those vehicles which are allowed to enter the National Park

carrying either tourists or the pilgrims. Till such proposal is finalsed, only petrol run vehicles can be allowed to go beyond Sherpur Tiraha Check Post which should be marked as Main Entry Point for all vehicles carrying tourists and pilgrims. Number and type of vehicles to enter the park can be decided by the Park Authorities in consultation with the District authorities as also Transport authorities. The prime consideration should be the safety, security and privacy of the wildlife as far as possible. Number of passengers, including a Driver and a Guide, in a vehicle, in no case, should be more than 20. The number of vehicles and the tourists visiting the National Park can be fixed by the Park authorities. All the vehicles allowed to enter the Park area should be duly registered for the particular purpose and certificate in this regard be pasted on the front screen. The vehicles should be driven by authorised Drivers and every vehicle should be accompanied by a properly trained and licenced Guide. It should be the responsibility of the Driver and the Guide to strictly adhere to the norms fixed by the Park authorities within the Park area. If there is any violation of any of the norms, the licence of the Driver as also the Guide should be made liable to be cancelled after giving one warning. The rotation of the vehicles carrying tourists in the Park can be fixed by the authorities in consultation

with the vehicle owners. A proper register be maintained at the entrance gate. Number of each vehicle, name of the Driver and Guide accompanying the tourists, time of entry and exit may be noted in the register. After due notice, the above directions should be made effective from 1.8.2007.

4. Pilgrims visiting the Ganesh Temple – There is a very small parking area at the Jogi Mahal Gate of the National Park. The pilgrims go on foot upto the Ganesh Temple from that point. The authorities may allow petrol run vehicles as public transport to carry pilgrims upto Jogi Mahal Gate. Public transport system be so devised that not more than three vehicles be allowed to enter Sherpur Tiraha Check Point every half an hour and such vehicles may be allowed to park at Jogi Mahal Gate parking area only for half an hour. The rotation of the vehicles may also be fixed by the authorities in consultation with the vehicle owners. Proper authorisation certificate for carrying pilgrims be pasted on the front screen of each vehicle. The rates of tickets for passengers may also be fixed by the authorities so that the vehicle owners may not exploit the pilgrims. All the entry tickets for the tourists visiting the Park area and the pilgrims visiting the temple should be issued at the Parking Complex only at Sherpur Tiraha.

The District Collector may appoint a Committee including Dy Conservator of Forest and Dy Field Director In-charge of the Park, District Transport Officer and the Additional District Magistrate to fix up the modalities of rotation of such transport vehicles and the decision of the Committee shall be final. Directions be complied with and made effective from 1.8.2007.

5. Parking at Jogi Mahal Gate – There is a small cramped area outside Jogi Mahal Gate from where tourists enter the main Park or the pilgrims go to the Ganesh Temple on foot. The area be so developed that not more than five vehicles be parked at a time. There may be one small Tourist Information Center with a proper Check Post for guards and security personnel. Entry of every vehicle reaching the point should be duly registered in a register. No commercial activity, whatsoever, be allowed to take place in that area. The pilgrims may buy their 'prasad' and other items from the Sherpur Tiraha Parking Complex only. Plastic bags and bottles be totally banned in the entire area upto the Ganesh temple. Smoking may be strictly prohibited not only in the Park area but on the entire route upto the Ganesh Temple.

6. Eco-sensitive Zone – Under the law, the eco-sensitive

zone has to be maintained and guarded strictly. All encroachments in the eco-sensitive zone beyond Sherpur Tiraha Check Post be removed immediately. After proper demarcation, entire eco-sensitive zone around National Park area be safeguarded by construction of wall or wire fencing. There should be no leniency, relaxation or protection of any encroachment by whosoever powerful person within the eco-sensitive zone. All constructions, even as per prior permission, be removed after due notice to the party and it is expected of the Courts also not to pass ex parte injunction orders without notice to the authorities and verifying the facts. It has also been brought to the notice of the Court that some of the hotels and resorts adjoining Park boundary have opened their gates in the Park area also. Dy Conservator of Forest and Dy Field Director In-charge of the National Park is directed to close all such outlets and gates immediately and remove encroachments as well in the Park area with the assistance of the police and local authorities.

7. Path to the Ganesh Temple – Most of the pilgrims visit Ganesh Temple on foot from Jogi Mahal Gate. The entire path upto the Ganesh temple be maintained properly. Necessary sheds with drinking water facility be provided after every 30 yards on the entire steep hilly track upto Ganesh Temple

with due permission of the Archaeological Department. The temple area may also be developed properly removing all encroachments made there.

8. Maintenance and development of National Park

- *Fencing* - The entire National Park should be secured by construction of atleast six feet high wall with proper gates and check posts at appropriate places. The fencing be done on priority basis so as to avoid encroachments in the Park area as also secure safety of the wildlife animals of the Park. The construction of high wall shall also check illegal and unauthorised grazing in the Park area.

- *Staff* – There is acute shortage of staff including Forest Guards, Cattle Guards and Rangers in the National Park. The security has been entrusted to the Home Guards and RAC constables along with few Forest Guards. There have been no regular recruitment for Forest Guards for last so many years. As per information given, there is requirement of minimum 450 personnel including Forest Guards, Rangers and officers for manning the entire National Park. The State Government is directed to sanction the requisite number of posts in each category urgently. The Chief Wildlife Warden, in consultation with the Dy Conservator of

Forest In-charge of the National Park may send the requisition for required number of staff for proper sanction from the State Government and recruitment be made as early as possible preferably within six months. Preference in the lower cadre posts should be given to the persons of the local area so that they may have some affinity with their own area to protect the environment and the wildlife in the National Park. Proper training and regular refresher courses be conducted for every staff member. The Forest Guards crossing the age of 45 years be preferably given duties in the office or the gates

- *Vehicles* – Considering the large area covered under the National Park very few vehicles have been provided to the staff of the Park for patrolling and other maintenance work. The Chief Wildlife Warden, in consultation with the Dy Conservator of Forest and Dy Field Director In-charge of the National Park may send the requisition for number of vehicles required for Park. The State Government is directed to issue sanction urgently. It may be pointed out here that only petrol run vehicles should be provided for all sort of duties and works within the Park area. Non-petrol run vehicles, if any, may immediately be replaced by petrol run vehicles.

- *Equipments to the staff* – All staff members including Forest Guards should be provided with electronic equipments as far as possible so as to inform each and every activity noticed by them to the Central Control Room. Some electronic device like GPS system may also be developed so as to locate and control all the vehicles within the Park area. The staff should also be provided suitable weapons for their own safety as also protection of wildlife from the poachers.

- *Finance* – National Parks are duly notified under a statute. They have to be treated as independent bodies having complete autonomy. It has been reported that funds are released by the National Tiger Conservation Authority, Central Government as also other organisations for conservation and protection of tigers specially for Ranthambore National Park, however, the same are not fully released by the State Government and, even if released, the same are not properly utilised for development of the Park. The entire financial control is kept by the State Government. At times, the funds given to the National Park are diverted to other schemes by the State Government on one pretext or the other. It is, therefore, directed that a separate account be opened in the name of Ranthambore National Park and all funds received, from whatever

sources, should be deposited in the same account at the disposal of the Chief Wildlife Warden as also the Dy Conservator of Forest and Dy Field Director In-charge of the National Park. Even the amount collected from the entry tickets and the Eco Development Cess should be exclusively utilised for development of the Park itself. The National Tiger Conservation Authority as also other organisations giving huge amount for development of the Park should have excess to the accounts and bring it to the notice of the higher authorities for taking action against the defaulting officers for not utilising the amount properly in the interest of the Park.

- *Prosecution for offences under the Wildlife Act* – To check the large scale poaching as reported, there has to be a separate prosecution wing under the Act of 1972 for every National Park. The legal assistance from the experts can be sought by the Prosecutors. The State Government, in consultation with the High Court, may establish Special Courts in certain areas for prosecution for the offences under the Act of 1972. The investigation and trial should be completed as expeditiously as possible preferably within six months.

- *Rewards for exceptional work under the Act of 1972* – As

provided under the Act itself, giving of rewards should be made regular feature every year to encourage employees and staff of the Park for protection of wildlife and environment as well. Though, there is a limit prescribed under the Act for giving cash reward upto Rs.10,000/-, however, the categories may be fixed for such rewards for protection of wildlife, protection of environment, giving information about poachers and by apprehending them and stopping illegal activities in the Park area. The private organisations may also come forward for giving special awards to the employees for their exceptional work in the interest of the wildlife and environment.

- *Shifting of villages from the Park area* – Though, proposals for shifting of villages from the Park area is under consideration with the State Government as also the Central Government, however, it will be just and proper that after identifying rehabilitating area the villagers should be shifted only after sufficient infrastructure been developed. The compensation fixed by the government is inadequate. It is only after providing basic infrastructure including drinking water, electricity, roads and even construction of houses, effective shifting of the villages can be done. The compensation proposed is only for displacement of the persons from one place to another. Some

small cottage industries may also be developed in the area so that persons, so shifted, can easily earn their livelihood.

- *Prohibition of weapons* – All sort of weapons including firearms should be prohibited in the entire Park area except for the weapons officially provided to the staff. The weapons so found unauthorisedly in the Park area be immediately confiscated and person carrying the same be prosecuted.

- *Responsibility of the officers of the Park* – Since entire control of the National Park is given to the Chief Wildlife Warden and Dy Conservator of Forest and Dy Field Director In-charge of the Park, they should be made responsible for proper protection and development of the Park including check on poaching and illegal activities in the Park area.

- *Check on Tourists* – Eco friendly Tourism is catch of the day but tourism should not be developed in the National Park at the cost of safety, security and discomfort for the wildlife. Generating awareness for saving wildlife can never be made a profit making tourist programme.

All vehicles carrying tourists in the Park area must keep distance of atleast 30 yards from the wild animals cited and minimum 50 yards from the cubs around. No vehicle should, in any case, leave the road fixed for particular route.

Use of flash in the cameras or other photography equipments should be totally prohibited.

The National Park should be closed totally for tourists atleast twice a week. The closure days can be fixed and notified by the Park authorities.

Booking of tickets can be done on-line only upto 60% of the daily tickets to be issued for the tourists. Rest 40% be sold at the Booking Office at the main Parking Complex.

There should be no interference of the Tourism Department in regard to issuing entry tickets or otherwise so far as National Park area is concerned. The Tourism Department can only assist the Park authorities upto the Parking Complex.

- ***Safari Park*** – As has been informed that proposal for

developing a Tiger Safari park at Sawai Madhopur is already under consideration of the Government. The proposal be expedited and implemented as early as possible to ease out pressure of tourists on the National Park.

No industry or commercial activity be allowed or permitted around National Park affecting over all ecology and environment of the area.

Above directions are only broad guidelines which should be implemented immediately by the concerned authorities. Rest of the work is to be done by the Forest authorities established under the amending Act of 2006. Above directions, by and large, may also be applied to other National Parks with certain modifications as per conditions of the particular area.

Due appreciation is recorded for Mr Kamlakar Sharma, Mr Bharat Vyas, Ms Anjana Gosin, Mr Raj Panjwani, Dr MS Kachhwaha, Mr Harshwardhan and all counsel for their assistance in the present matter.

With the above directions, all the writ petitions are disposed of accordingly.

(Ashok Parihar) J.

bnsharma